

Commodity Credit Corporation, USDA

§ 1427.1108

the Cottonseed Payment Program Application and Certification.

[68 FR 20332, Apr. 25, 2003, as amended at 71 FR 4233, Jan. 26, 2006]

§ 1427.1106 Available funds.

The total available program funds for the 2004-crop cottonseed program provided for in this subpart shall be \$10 million.

[71 FR 4233, Jan. 26, 2006]

§ 1427.1107 Applicant payment quantity.

(a) The applicant's payment quantity of cottonseed will be calculated by the applicant and submitted on the Cottonseed Payment Application and Certification for approval for by CCC. An applicant must be an eligible gin and the applicant's payment eligibility will be based on the determination of the amount of lint deliveries by cotton producers in eligible counties which were lost to the gin because of the qualifying hurricane or tropical storm as calculated under this section.

(1) The lost lint determination will be made on a producer-by-producer and farm-by-farm basis, based on producer certification, ginning records and other relevant information as applicable.

(2) The loss determination will be limited to losses related to 2004-crop cotton production in eligible counties. A cotton producer's gross loss of lint shall be determined based on a comparison of lint deliveries for 2003 and 2004 by the producer from the eligible farm to all gins. That difference will be adjusted to reflect changes in the acreage planted in the two years by the producer on the eligible farm and adjusted for losses due to reasons other than hurricane or tropical storm.

(b) The producer will certify the gin or gins to which the lost lint production as so determined would have been delivered. Also, the producer will certify the relevant percentages of the losses that would have been delivered to each gin if more than one gin would have received the deliveries. Apportionment of the loss may be made by CCC between gins on that basis.

(c) If the producer delivered 2004-crop cotton to a gin different than the gin to which the producer delivered 2003-

crop cotton, or delivered cotton to more than one gin in either 2003 or 2004, the gin receiving 2004-crop cotton shall contact the other gins for production information or obtain other proof of the eligible quantity from the cotton producer so as to make or verify the calculation called for in paragraph (a) of this section.

(d) If the cotton producer did not produce 2003-crop cotton the producer shall be considered a new producer. A new producer's eligible lost quantity will be determined as provided in paragraph (a) of this section except that the amount of loss of lint will be made by comparing the producer's actual 2004 per-acre yield with the 2003 USDA, National Agricultural Statistics Service county average yield for the applicable county.

(e) The gin's lint eligibility will be calculated individually with respect to all eligible cotton producers and those individual eligibilities for the gin will then be added together to determine the total lint eligibility of the gin. From that amount of lint eligibility, the applicant gin's payment quantity of cottonseed shall be calculated by CCC by multiplying:

(1) The applicant gin's eligible weight of lint for which payment is requested, as approved by CCC, and as determined in paragraphs (a) through (d) of this section by;

(2) The Olympic average of estimated pounds of cottonseed per pound of ginned cotton lint, as determined by CCC, for the five years preceding the 2004 crop year.

[71 FR 4233, Jan. 26, 2006]

§ 1427.1108 Total payment quantity.

The total quantity of 2004-crop cottonseed eligible under this subpart shall be based on the total payment quantity of cottonseed as determined under this subpart for which timely applications are filed. Eligible cottonseed for which no application is received according to announced application instructions shall not be included in the total payment quantity of cottonseed. The total payment quantity of cottonseed (ton-basis) shall be calculated by multiplying:

(a) The total weight of cotton lint, converted to tons, for which payment

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is requested by all applicants, as approved by CCC, by

(b) The Olympic average of estimated pounds of cottonseed per pound of ginned cotton lint, as determined by CCC for the five years preceding the 2004 crop year.

[71 FR 4234, Jan. 26, 2006]

§ 1427.1109 Payment rate.

The payment rate (dollars per ton) shall be determined by CCC by dividing the total available program funds by the total eligible payment quantity of cottonseed. However, in no event may the total payment to an eligible applicant exceed \$114 per ton of cottonseed multiplied by the applicant's total eligible payment quantity.

[71 FR 4234, Jan. 26, 2006]

§ 1427.1110 Payment calculation and form.

(a) Payments in accordance with this subpart shall be determined for individual applicants by multiplying:

(1) The payment rate, determined in accordance with § 1427.1109, by

(2) The eligible payment quantity of the applicant, determined in accordance with § 1427.1107 and other provisions of this subpart.

(b) After receipt of the application for payment, CCC will issue payments to the applicant by electronic funds transfer to the applicant's account except that applicants may request that payment be made by mailed check.

§ 1427.1111 Liability of first handler.

(a) If any person makes any erroneous or fraudulent representation in obtaining a cottonseed payment under this part, or in connection with such a payment engages in a scheme or device that tends to defeat the purposes of this program, the person shall be liable to CCC for the amount of the payment and interest on such payment as determined by CCC. Such remedy will be in addition to whatever additional remedies may be allowed by law.

(b) If more than one person executes a program payment application with CCC and payments are made thereunder, each such person shall be jointly and severally liable for any violation of the terms and conditions for any pay-

ment made to anyone under that application or for any refund due from any person signing that application. Such liability shall remain until payment in full is made of any such refund and its related charges.

(c) If a person receives a program payment in excess of the amount authorized by this subpart, that person shall refund to CCC an amount equal to the excess payment, plus interest thereon, as determined by CCC.

(d) For 3 years after the date of the application for 2004-crop payments, the applicant shall keep records, including records supporting the quantity of cottonseed for which payment was requested, and furnish such information and reports relating to the application to CCC as requested. Such records shall be available at all reasonable times for an audit or inspection by authorized representatives of CCC, United States Department of Agriculture, or the Comptroller General of the United States. Failure to keep, or make available, such records may result in refund to CCC of all payments received, plus interest thereon, as determined by CCC. In the event of a controversy concerning payments, records must be kept for such longer period as may be specified by CCC until such controversy is resolved. Destruction of records at any time is at the risk of the applicant.

[68 FR 20332, Apr. 25, 2003, as amended at 71 FR 4234, Jan. 26, 2006]

Subpart G—Extra Long Staple (ELS) Cotton Competitiveness Payment Program

SOURCE: 70 FR 67343, Nov. 7, 2005, unless otherwise noted.

§ 1427.1200 Applicability.

(a) These regulations set forth the terms and conditions under which CCC shall make payments to eligible domestic users and exporters of extra long staple cotton who have entered into an ELS Cotton Domestic User/Exporter Agreement with CCC.

(b) CCC will issue payments to domestic users and exporters in any week following a consecutive 4-week period in which: